IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5686 OF 2006

Mr. Shamkant Shivram Panchal ..Petitioner

Vs.

MSRT Corporation, Ratnagiri ..Respondent

Mr. M.S. Topkar for petitioner.
Mr. C.M. Lokesh h/f Mr. G.S. Hegde for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : August 28, 2006.

P.C.:

1. Heard Mr. Topkar the learned counsel for the petitioner who was the Conductor under the respondent-Corporation since 1986. He was on duty of the respondent's Bus on 24/2/2005 on Koldhe-Lanja route and his Bus was checked. It was noted that one of the passengers had given to the petitioner an amount of Rs.6/- for issuing ticket for his journey from Chavane to Lanja but he was not issued a ticket till the Bus was checked by the flying squad. He was, therefore, issued a charge-sheet on 5/3/2005 which was replied by him on 28/3/2005. A departmental inquiry was instituted in which the petitioner participated and the Inquiry Officer found him to be guilty.

Second show-cause notice was issued on 1/4/2005 and consequently he approached the Labour Court in Complaint (ULP) No.78 of 2005 on the ground that the proposed punishment of dismissal was harsh and grossly disproportionate. After hearing both the parties, the learned Judge of the Labour Court was pleased to dismiss the Complaint by his Judgment and Order dated 20/1/2006. The Revision Application (ULP) No.64 of 2006 was also dismissed by the learned Member of the Industrial Court at Kolhapur on 17/7/2006 and hence this petition.

2. The Labour Court on evaluation of the evidence noted that one Shri Anant Ramani could not produce his Bus ticket and, therefore, his as well as the petitioner's statement was recorded by the flying squad. Said Mr. Ramani stated that on 24/2/2005 when he boarded the Bus at Koldhe and paid an amount of Rs.10/- to the Conductor and thereafter he gave one more rupee. During his cross-examination he admitted that rupee one was given by another passenger travelling with him and residing in his village. During the cross examination on behalf of the petitioner a question was asked to this witness as to

why he did not demand a ticket of Rs.6/- and the balance amount. This question itself implied some amount of admission on the part of the complainant and in any case the witness was consistent in his depositions when the Bus was checked and when he appeared before the Inquiry Officer. The Labour Court also further noted that the complainant had initially admitted the fact that he did not issue the ticket to Mr. Ramani but subsequently during the course of his cross-examination before the Inquiry Officer he changed the stand. The inquiry was held to be fair and proper and the findings recorded by the Inquiry Officer were upheld. Once the charge on issuing a ticket for passenger after accepting the money given by him was proved, the punishment proposed of dismissal was in keeping with the Service Rules, noted the Labour Court. The Industrial Court in its revisionary powers held that the charges were as per Clauses 7(C), 7(D), 12(B) and 22 of the Discipline and Appeal Procedure and it was an act of major misconduct and, therefore, as per the Industrial Court proposed punishment was not shockingly disproportionate or patently false reasons or by way of victimisation.

3. The petitioner being a public servant, the amount of Rs.5 or 6 which was paid by the passenger and the petitioner did not issue the ticket is immaterial to hold that he was not guilty of being retained in service of a public body and, therefore, the concurrent view taken by both the courts below does not call for any interference under the supervisory powers under Article 227 of the Constitution. The charges have been proved, the inquiry was held to be fair and proper and the charges were of serious nature. When the cash with the petitioner was checked, an amount of Rs.5/- was in excess. This was an additional circumstances to prove the motive of the petitioner.

4. Hence, the petition fails at the threshold and the same is hereby rejected summarily.

(B.H. Marlapalle,J.)